

ORDINANCE NO. 3074

AN ORDINANCE AMENDING THE VILLAGE CODE OF THE VILLAGE OF ELK GROVE VILLAGE BY ENACTING REGULATIONS PERTAINING TO SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT

WHEREAS, the Elk Grove Village Board of Health; the Judiciary, Planning and Zoning Committee and the Village Board have held public meetings with respect to considering the adoption of regulations for smoking in public places and in places of employment; and

WHEREAS, as a result of said meetings, and information submitted to the Mayor and Board of Trustees concerning health matters related to smoking and secondhand smoke, the Mayor and Board of Trustees find as follows:

1. Tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke is a cause of disease in healthy non-smokers.
2. Secondhand smoke contains over 4,000 chemical compounds and produces known poisons such as carbon monoxide, arsenic, hydrogen cyanide, benzene, and formaldehyde.
3. The US Environmental Protection Agency classifies secondhand smoke as a “Class A Carcinogen”.
4. Secondhand smoke is the third leading cause of preventable death in America and causes cancer, stroke, heart disease, SIDS and asthma.
5. Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease and individuals with impaired respiratory functions.
6. Employees who work in a smoke-filled business suffer a 25 – 50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer.
7. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections and cancer; and

WHEREAS, as a result of the above findings as well as testimony from doctors who have treated patients who have suffered from the affects of secondhand smoke, the Mayor and Board of Trustees have determined that regulations are necessary to prohibit smoking in public places and in work places to protect the health, safety and welfare of Village residents and others who would otherwise be subject to the dangers of second-hand smoke.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Elk Grove Village, Counties of Cook and DuPage, Illinois as follows:

Section 1: That the foregoing recitals are incorporated herein as the findings of the Mayor and Board of Trustees of the Village of Elk Grove Village.

Section 2: That Title 4 Public Health of the Village Code be and the same is hereby amended by adding the following Chapter 7 entitled “Smoke Free Air Regulations”.

Chapter 7 - Smoke Free Air Regulations

4-7-1 Purpose: It has been determined and the Village hereby finds that smoking and the resultant secondhand smoke can have a deleterious effect on the health and welfare of those in the vicinity where such smoking occurs. Secondhand smoke has been deemed a Class A Carcinogen which produces substances such as carbon monoxide, hydrogen cyanide and other substances considered hazardous and dangerous to individual’s health. As a result, the Village has determined that it is necessary and desirable to establish regulations that prohibit smoking in certain hereinafter designated areas.

4-7-2 Definitions

- A. **“Business”** means any sole proprietorship, partnership, joint venture, corporation, association or other business entity, whether formed for profit or non-profit purposes and shall include clubs as herein defined.
- B. **“Club”** means a private not-for-profit association, corporation or other entity consisting of persons who are bona fide paying members and which owns, leases or uses a building or portion thereof, the use of which is restricted primarily to members and their guests.
- C. **“Employer”** means any business that employs one or more employees.
- D. **“Enclosed area”** means all space in any structure or building that is in enclosed on all sides by any combination of walls, windows, or doorways, extending from floor to ceiling and in addition, shall include, without limitation, lobbies, hallways, reception areas, restrooms, elevators and staircases.
- E. **“Open Air Dining Area”** means a seating area open to the air that is accessory to a restaurant, hotel, cafeteria, private club or other public place engaged in purveying commercial food or beverage service where

members of the public, members or guests are invited to sit and receive food and beverage service for a consideration.

- F. “Place of employment”** means an area under the control of a public or private employer within the Village that employees normally frequent during the course of employment, and includes, without limitation, common work areas, private offices, auditoriums, classrooms, conference and meeting rooms, cafeterias, elevators, employee lounges, staircases, hallways and restrooms. Place of employment does not include a private dwelling unit unless the dwelling is also used as a daycare facility.
- G. “Park”** means a public park or recreation area that is open to and used by the general public.
- H. “Public Entrance”** means the main doorway or other entrance to a public place that is open to and intended for use by the general public for ingress and egress to the public place.
- “Public Entrance”** also means a doorway or other entrance for pedestrian ingress and egress to a place of employment: (i.) that is open to and intended for use by the general public or business invitee’s ingress and egress to the place of employment and/or; (ii.) where employees are required or permitted to enter or exit the place of employment.
- I. “Public place”** means any industrial, business, or commercial area that is open to and used by the general public, or any area to which the public is invited or in which the public is permitted, and any common or public area (including without limitation, lobbies, hallways, reception areas, public restrooms, elevators and staircases) of residential facilities such as apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple family residential structures and nursing home and long term care facilities, including the living units located therein.

“Public place” shall also mean any common or public areas as defined herein of governmental, and educational and service related facilities including, without limitation, office buildings, banks and financial institutions, educational institutions, health care facilities such as hospitals, clinics and doctors offices, museums, libraries, restaurants (except outdoor dining areas located beyond ten feet of the main public entrance), polling places, government and Village owned buildings, food stores, cafeterias, theaters, auditoriums, train and bus stations, hotels, motels, and other retail and service establishments provided that, a public place shall not include hotel or motel rooms designated as

smoking, provided that no more than 20% of the available rooms for rent in any single building shall be designated as smoking rooms.

- J. “Smoke” or “smoking”** means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or form.

4-7-3 Smoking in Enclosed Public Places Prohibited

- A.** It is unlawful for any individual to smoke in any enclosed area of any public place.
- B.** It shall be unlawful for the owner, occupant or lessee, as the case may be, in control of a public place to knowingly permit smoking in any enclosed area in a public place.

4-7-4 Regulations in Unenclosed Public Places and Outdoor Venues

- A.** It is unlawful to smoke in the following unenclosed public places:
- (1) The seating areas of all outdoor arenas, stadiums and amphitheaters.
 - (2) The playground area and established seating areas of public parks and recreation areas.
 - (3) School grounds.
 - (4) Public sidewalks within ten (10) feet of a public entrance, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.
 - (5) The public right-of-way (sidewalk to sidewalk) along the routes of special events including the annual Village Parade and the Village’s International Bike Race.
- B.** It is unlawful to smoke in or within ten (10) feet of an outdoor venue during the time that an outdoor event is taking place.
- C.** Rotary Fest/Carnival Regulations:
- (1) Smoking shall be permitted in certain designated areas in an area covered by a tent provided that the smoking area shall not exceed 50% of the total area covered by the tent.
 - (2) Smoking shall be permitted in certain restricted outside areas adjacent to the tent facility as approved by the Village.
 - (3) Smoking shall be prohibited in the carnival area.

4-7-5 Smoking in Places of Employment Prohibited

- A. It is unlawful to smoke in any enclosed area of any place of employment.
- B. It shall be unlawful for any employer to knowingly permit smoking in any enclosed area of any place of employment.

4-7-6 Smoking at Public Entrances Prohibited

It is unlawful to smoke within ten (10) feet of a public entrance to a public place or to a place of employment.

4-7-7 Signs

- A. Each owner, lessor, lessee, employer, or other person in control of a public place shall post conspicuous “No Smoking” signs in the enclosed area of any public place where smoking is prohibited. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this Section.
- B. Each owner, lessor, lessee, employer or other person in control of a public park or recreation area, or of a school ground, shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited in certain locations within the park and recreation areas and on school grounds.

4-7-8 Penalty

Any person, firm or corporation violating any of the provisions of this Chapter shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than five-hundred dollars (\$500.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

In addition, any person, firm or corporation who violates any of the provisions of this Chapter and who has a business license issued by the Village, may be subject to having the license suspended or revoked by the Mayor pursuant to Section 3-6B-6 if the license fails to comply with the provisions of this Chapter.

Section 3: That this Ordinance, and each of its terms, shall consist of an effective legislative act of a Home Rule Municipality and it is the intent of the Mayor and Board of Trustees that to the extent that the terms of this Ordinance shall be inconsistent with any non-preempted State Law, this Ordinance shall supercede State Law in that regard within its jurisdiction.

Section 4: That this Ordinance shall be in full force and effect on **January 1, 2007**, from and after its passage, approval and publication in pamphlet form as provided by law, and provided further that the definition of “Place of employment” as it relates to employment of health regulations of **in-house daycare facilities shall be in full force and effect on June 1, 2006.**

Section 5: That the Village Clerk is hereby authorized to publish this Ordinance in pamphlet form.

VOTE: AYES: 4 NAYS: 2 ABSENT: 0

PASSED this 28th day of March 2006.

APPROVED this 28th day of March 2006.

APPROVED:

Mayor Craig B. Johnson
Village of Elk Grove Village

ATTEST:

Ann I. Walsh, Village Clerk

PUBLISHED this 31st day of March 2006 in pamphlet form.

OrdsmokingbancorrectAdopted.